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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANIEL DELL, et al.,

Plaintiffs,

vs.

SERVICEMASTER GLOBAL HOLDINGS,
 INC.,

Defendant.

Case No. 3:15-cv-03326-JSC

**STIPULATION RE PLAINTIFF'S
 OPPOSITION TO MOTION TO
 DISMISS AND COMPEL
 ARBITRATION; ~~PROPOSED~~
 ORDER**

Date: September 10, 2015
 Time: 9:00 a.m.
 Courtroom: F

1 WHEREAS, Plaintiff originally filed this case in the Superior Court of California, County of
2 Alameda, on April 29, 2015;

3 WHEREAS, the parties stipulated that Defendant's counsel accepted service of the Complaint
4 on June 19, 2015;

5 WHEREAS, on July 17, 2015, Defendant filed a Notice of Removal to this Court [EFC 1];

6 WHEREAS, on July 20, 2015, the case was assigned to the Honorable Jacqueline Scott
7 Corley [ECF 4];

8 WHEREAS, on July 24, 2015, Defendant filed a Motion to Dismiss and Compel Arbitration,
9 or in the alternative, Stay the Action pursuant to FRCP 12(b)1, 12(b)(3), or 12(b)(6) and the Federal
10 Arbitration Act [ECF 6].

11 WHEREAS, Defendant noticed the Motion for hearing on September 10, 2015, before
12 Magistrate Judge Corley [ECF 6];

13 WHEREAS, on August 3, 2015, counsel for Plaintiff notified counsel for Defendant that
14 Plaintiff intends to file a motion to remand the case to Superior Court;

15 WHEREAS, the Parties agree that it would be more efficient and serve the interests of justice
16 to postpone the remaining briefing on the Motion to Dismiss and Compel Arbitration until after a
17 determination is made on Plaintiff's motion to remand, when the Parties will know which Court has
18 jurisdiction to decide the Motion; and

19 WHEREAS, on August 3, 2015, Defendant filed a notice declining to proceed before the U.S.
20 Magistrate Judge [ECF 8], and the case is currently being reassigned to a District Court Judge
21

22 **STIPULATION**

23 In light of the foregoing, it is hereby STIPULATED between the parties that:

- 24 (1) Plaintiff will file a Motion to Remand on or before August 17, 2015;
- 25 (2) If the Court denies the motion and retains jurisdiction over this case, Plaintiff's
26 opposition to the Motion to Dismiss and Compel Arbitration [ECF 6] will be due 14 days after the
27

1 Court rules on Plaintiff's Motion to Remand, and Defendant will re-notice the Motion to Dismiss on
2 the then-assigned Judge's law and motion calendar on a date that is convenient to the Parties; and

3 (3) If the Court grants the motion to remand, the Parties will meet and confer on a briefing
4 schedule for any demurrer or motion to compel arbitration that may be brought in the Superior Court
5 of California.

6
7 Dated: August 4, 2015

GIBBS LAW GROUP LLP

8 SCHNEIDER WALLACE

9 COTTRELL KONECKY WOTKYNs LLP

10 /s/ Joshua G. Konecky

11 Joshua G. Konecky

Counsel for Plaintiffs

12
13 Dated: August 4, 2015

LITTLER MENDELSON, P.C.

14 /s/ Tara L. Presnell

15 Tara L. Presnell

Counsel for Defendants

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~~[proposed]~~ **ORDER**

Good cause shown, the Court hereby ORDERS as follows:

(1) The hearing on Defendant's Motion to Dismiss and Compel Arbitration is hereby VACATED;

(2) If the Court retains jurisdiction over this case after considering Plaintiff's motion to remand, Plaintiff's opposition to the Motion to Dismiss and Compel Arbitration [ECF 6] will be due 14 days after the Court rules on Plaintiff's Motion to Remand, and Defendant will re-notice the Motion to Dismiss on the then-assigned Judge's law and motion calendar on a date that is convenient to the Parties

IT IS SO ORDERED.

Dated: August 4, 2015


UNITED STATES DISTRICT COURT JUDGE

ATTESTATION PER LOCAL RULE 5-1(i)(3)

The e-filing attorney hereby attests that concurrence in the filing of the document has been obtained from each of the other signatories indicated by a conformed signature (/S/) within this e-filed document.

Dated: August 4, 2015

/s/ Joshua Konecky

Joshua Konecky
SCHNEIDER WALLACE COTTRELL
KONECKY WOTKYNS LLP

CERTIFICATE OF SERVICE

I hereby certify that on August 4, 2015, I electronically filed the foregoing document with the Clerk of the Court using the Court's CM/ECF system, which will send a notice of electronic filing to all CM/ECF participants.

/s/ Joshua Konecky

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